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22 **UNITED STATES DISTRICT COURT**
23 **DISTRICT OF NEVADA**

24 SUNLIGHTEN, INC.,

25 Plaintiff,

26 v.

27 FINNMARK DESIGNS, LLC,

28 Defendant.

Case No.: 2:20-cv-00127-JAD- EJY

**STIPULATION AND [PROPOSED]
ORDER FOR EXTENSION OF TIME
TO RESPOND TO DEFENDANT
FINNMARK DESIGNS, LLC'S MOTION
FOR PARTIAL SUMMARY JUDGMENT
ON COUNTS 1, 2 AND 4 OF THE
COMPLAINT
(FIRST REQUEST) [ECF No. 56]**

Pursuant to Fed. R. Civ. P. 6 and 26, and Local Rules IA6-1 and IA6-2, Plaintiff Sunlighten, Inc. seeks an extension of time to respond to Defendant Finnmark Designs, LLC's Motion for Partial Summary Judgment on Counts 1, 2 and 4 of the Complaint (ECF 48) (the "Motion") that was filed on April 30, 2021. Plaintiff's response is currently due May 21, 2021. It is requested

1 that the deadline to respond to the motion be extended by 60 days, or up to and including July
2 20, 2021, with Defendant's Reply Brief in support of the Motion due within 30 days, or up to
3 and including August 19, 2021. In support of this stipulation, the parties state as follows:

4
5 1. One section of Defendant's Motion argues that one of the patents-in-suit is invalid
6 based on anticipation arising from an earlier sale of an existing infrared sauna called the SolarSpa.
7 *See* ECF 48 at 19-21.

8 2. This section relies in part on documentary and deposition testimonial evidence
9 provided by third-party witness David Floyd Shurtleff, who was deposed by Defendant in this case
10 on March 18, 2021, with Plaintiff's counsel in attendance.

11
12 3. Prior to Mr. Floyd's deposition appearance, Plaintiff had attempted to serve a
13 subpoena on Mr. Shurtleff but was unsuccessful in locating him.

14 4. On April 30, 2021, Defendant's counsel kindly agreed to accept service of the
15 previously-issued subpoena for documents on behalf of Mr. Shurtleff. On May 14, 2021, Plaintiff
16 reissued the Shurtleff subpoena and sent the same to Defendant's counsel.

17
18 5. Plaintiff requests additional time to respond to the Motion so that it has time to
19 receive the requested documents from Mr. Shurtleff and possibly depose him regarding the
20 documents. Plaintiff believes this discovery is necessary to properly respond to the Shurtleff
21 documents presented in the Motion. While Defendant respectfully disagrees with such position
22 and maintains that the Shurtleff evidence is only a small part of one small section of the Motion
23 and was discussed at Mr. Shurtleff's March deposition, Defendant is nevertheless agreeing to
24 Plaintiff's requested extension of time to oppose the Motion out of professional courtesy to
25 Plaintiff's counsel and because of the mutual extension of time granted herein as well as the
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1 anticipated similar professional courtesy extensions that Defendant may need and will expect in
2 the future if and when Plaintiff files its own dispositive motion in this case.

3 6. Additionally, if the Court issues a claim construction Order in the interim, the
4 parties will benefit from understanding the scope of the patents, which will help frame any
5 arguments regarding invalidity.
6

7 7. Discovery is currently scheduled to end on July 1, 2021. The parties will be busy
8 conducting party and expert depositions, as well as exchanging any remaining discovery requests,
9 for the next month and a half until discovery ends. The requested extensions herein allow the
10 parties to finish discovery without Plaintiff having to simultaneously prepare a response to the
11 Motion.
12

13 8. Pursuant to the Stipulation and Order to Extend Discovery Deadlines entered by
14 the Court on January 11, 2021 (ECF 35), the deadline to file dispositive motions is presently
15 August 16, 2021.
16

17 9. This is the first request for an extension of time to respond to Defendant's
18 Motion.

19 10. For the above stated reasons, the request is made in in good faith and not for the
20 purpose of delay.

21 For the above reasons, the Parties request that this stipulation for an extension of time to
22 respond to Defendant's Motion be granted giving Plaintiff up to and including July 20, 2021, to
23 file a response to the Motion and giving Defendant up to and including August 19, 2021 to file
24 its Reply Brief in support of the Motion.
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Respectfully submitted,

ERICKSON KERNELL IP, LLC

By: /s/ James J. Kernell

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Order

Based on the parties' stipulation [ECF No. 56] and good cause appearing, IT IS HEREBY ORDERED that the deadline for plaintiff Sunlighten, Inc. to respond to defendant Finnmark Designs, LLC's motion for partial summary judgment [ECF No. 48] is EXTENDED to July 20, 2021, and the deadline for Finnmark to file its reply in support of that motion is EXTENDED to August 19, 2021.



U.S. District Judge Jennifer A. Dorsey
May 21, 2021